

**MEMO**

**TO: Board of Finance**  
**FROM: Gene Richards, Burlington International Airport**  
**DATE: April 15, 2013**  
**SUBJECT: Finance Board Approval Request – Federal Express Lease Renewal**

The Burlington International Airport seeks Finance Board and City Council approval to enter into an agreement with Federal Express Corporation for the operation of cargo services at the Burlington International Airport.

Federal Express first leased ground space at the Airport in 1986 and is seeking a renewal to the agreement with the first term beginning on June 1, 2013 and ending on June 31, 2018. The agreement includes a renewal option for a term of five years beginning July 1, 2018 and ending June 31, 2023, to be mutually agreeable between both parties. For both terms, Federal Express will be billed a ground rental rate to be adjusted annually based on the CPI for the 84,250 square feet occupied.

With the expiration of the previous lease agreement, the building constructed by Federal Express in 1986 becomes the property of the Airport and is therefore subject to rental income for the Airport. All utilities, taxes and maintenance of the structure will remain the responsibility of the tenant. The annual fixed building rental for the first term will be \$18,000, and a renewal term an annual fixed building rental of \$20,340. In addition to rental income, the Airport receives significant landing fees from the aircraft. The final lease agreement will be reviewed by the City Attorney's Office prior to being signed by the Mayor.

Thank you for your consideration.

A draft resolution is included with this Request.

DRAFT CITY OF BURLINGTON, VERMONT AGREEMENT AND LEASE OF  
PREMISES AT  
BURLINGTON INTERNATIONAL AIRPORT, SOUTH BURLINGTON, VERMONT

This Agreement and Lease of Premises (hereinafter referred to as "Agreement"), made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2013, by and between the City of Burlington, a Vermont municipal corporation (hereinafter referred to as "CITY"), and Federal Express, Inc., a Delaware corporation, having a principal place of business at 3610 Hacks Cross Road, Memphis, TN 38125 (hereinafter referred to as "AIRLINE").

WITNESSETH:

WHEREAS, CITY owns and operates an airport known as the Burlington International Airport (the "Airport"), located in the County of Chittenden, State of Vermont, the Airport being shown in Exhibit A, attached hereto and made a part hereof; and

WHEREAS, AIRLINE is engaged in the business of air transportation with respect to property, cargo, and mail; and

WHEREAS, the parties desire to enter into an agreement and lease for the use of premises and facilities at the Airport all as more fully hereinafter set forth,

NOW THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, CITY and AIRLINE do hereby mutually undertake, promise, and agree, each for itself and its successors and assigns, as follows:

ARTICLE 1  
DEFINITIONS

Section 1.01. Definitions

The words and phrases recited in this section shall have the following meanings when used elsewhere in this Agreement, unless the context clearly indicates otherwise:

A. "Affiliate" shall mean any non-tenant air transportation company that is either a wholly-owned subsidiary of AIRLINE or operates under essentially the same trade name as AIRLINE at the Airport and uses essentially the same livery as AIRLINE. An Affiliate shall have the rights afforded AIRLINE without incurring any additional charges or premiums so long as AIRLINE remains a Signatory to this Agreement. An Affiliate shall be primarily liable for the payment of Landing Fees and other fees incurred at the Airport; provided, however, that AIRLINE shall be secondarily liable as a guarantor for all unpaid fees or charges incurred by such Affiliate while such Affiliate operates at the Airport. Unless specifically stated otherwise, "AIRLINE" as used throughout this Agreement shall be deemed to include "Affiliate."

B. "Air Transportation" shall mean the carriage of property, cargo, and mail by aircraft and all other activities reasonably related thereto.

C. "Aircraft Arrival" shall mean any aircraft arrival at the Airport (including, without limitation, scheduled flights, courtesy flights, inspection flights, or any other

flights). Aircraft arrival shall not include any flight that returns to the Airport because of mechanical, meteorological, or other emergency or precautionary reason.

D. "Airline Premises" or "Leased Premises" shall mean those areas assigned to AIRLINE as Exclusive Use Premises, as defined herein, and shown on Exhibits "D" and "E" attached hereto.

E. "Airport" shall mean the Burlington International Airport located in the City of South Burlington, Chittenden County, Vermont as shown on Exhibit A attached hereto. Without limiting the generality of the foregoing, the term "Airport" shall include:

1. Any and all of the following directly related to the Airport:  
lands or water areas, rights or interests in land, rights-of-way and approaches; navigation and landing aids and other air navigation facilities; facilities for storage of aircraft; passenger and cargo terminal buildings, hangers, control towers and administration offices and other buildings and facilities; runways, taxiways, pads, aprons, and other paved areas; access roads; garages, parking lots and other parking structures; furnishings, equipment and apparatus; all other structures, facilities and improvements directly necessary or advisable to the development and maintenance of the Airport and for the promotion and accommodation of air travel, commerce and navigation; and all other property (real, personal, mixed or otherwise), now or hereafter

constructed or acquired, of or directly belonging or pertaining to the Airport.

F. "Airport Cost Centers" shall mean the following cost centers, as more fully described in Exhibit B, such cost centers to be used by CITY in its accounting for Airport revenues and expenses and for calculating and adjusting certain rentals, fees, and charges set forth in this Agreement. Allocation of Airport revenues and expenses to the following cost centers shall be made by CITY using generally accepted accounting principles.

1. "Airfield Area" shall include those areas on the Airport that provide for the landing, takeoff, taxiing, parking, loading, unloading, servicing, approach and clear zones, infield area, navigational aids or other operations of aircraft.

2. "Parking Area" shall include the access roads and parking areas serving the Airport.

3. "Terminal Complex" shall include the terminal building together with associated concourses.

4. "Industrial Park" shall mean that portion of the Airport utilized as an industrial park together with the facilities, installations, and improvements in regard to such area as they now exist or as they may hereafter be modified or developed.

5. "Rented Buildings and Other Areas" shall mean those portions of the Airport not included in paragraphs 1, 2, 3, and 4 above,

and such term shall include the facilities, installations, and improvements in regard to such areas as they now exist or as they may hereafter be modified or developed.

G. "Airport Manager" or "Director of Aviation" shall mean the individual delegated special and immediate care and practical supervision of the Airport pursuant to 24 V.S.A. Appx. Ch. 3 section 276 (c).

H. "Airport Operating Revenue" shall mean all rentals, charges, landing fees, user charges, parking fees, concession and other operating revenues received by or on behalf of CITY in connection with the operation of the Airport or any part thereof, excluding (1) all revenues resulting from the investment of any funds by CITY; and (2) all gifts, grants, reimbursements, restricted funds or payments received from governmental units, public agencies or any other source. Airport Operating Revenue shall not include any revenue or income from any Special Purpose Facility either (1) to the extent such revenue or income is pledged to pay principal, interest, or other charges for Bonds or other obligations issued in anticipation thereof, or (2) to the extent such revenue or income is for the use of CITY in reimbursement of costs incurred by it in the construction or provision of Special Purpose Facilities. Ground rental for these Special Purpose Facilities will be considered Airport Operating Revenue. Airport Operating Revenue shall not include revenues resulting from the Industrial Park and shall not include rented buildings purchased by the CITY pursuant to an AIP project.

I. "Annual Budget" shall mean the capital and operating budget prepared for the Airport and adopted by the City Council of the City of Burlington.

J. "Board of Airport Commissioners" shall mean the body appointed pursuant to 24 V.S.A. Appx. Ch. 3 section 276 (a).

K. "Bond Amortization" shall mean the amount required on an annual basis to be paid for principal, interest and applicable premiums on outstanding bonds together with the amounts required to fully fund all special funds and/or reserve accounts required by the Bond Resolution to be funded.

L. "Bond Resolution" shall mean any resolution of the CITY regulating or authorizing the issuance of Bonds, other than Special Purpose Facility Bonds, payable from Airport Operating Revenue.

M. "Bonds" shall mean General Obligation Bonds, both serial and term, heretofore and hereinafter issued by CITY to finance Airport improvements together with any Airport Revenue Bonds or any other similar or substitute financing instrument (including but not limited to notes, certificates, and commercial paper) that might be issued in the future for Airport purposes under and pursuant to authorizing legislation.

N. "Capital Charges" shall mean debt service and amortization requirements.

O. "Capital Improvement" shall mean, for any fiscal year, (a) any single item acquired, purchased, or constructed for use in any Cost Center which has a useful life of three (3) years or more, or which will extend the useful life of any existing

asset included within said cost centers for a period of three (3) years or more. Said term shall include any expense for development studies, analyses, engineering, master planning efforts (including periodic reviews thereof) and economic or operational studies of the Airport.

P. "City Council" shall mean the elected body of the CITY with exclusive general management and control of the Airport. Where this Agreement speaks of approval or consent of the CITY, such approval is manifested by act of the City Council or as it may delegate by resolution to the Board of Airport Commissioners or the Airport Manager.

Q. "DHS" shall mean the Department of Homeland Security, and its authorized successors.

R. "Due Date" shall mean the date when AIRLINE payment obligations under this Agreement must be received by CITY.

S. "Enplanements" shall mean any local boarding, interline transfer or intraline transfer of passengers at the Airport. "Passenger" means and includes all those who are reported to the Department of Transportation on Form 298-C, T-100, or similar form.

T. "Exclusive Use Premises" shall mean those portions of the Cargo Ramp area and building assigned to AIRLINE, as shown on Exhibit "A".

U. "FAA" shall mean the Federal Aviation Administration of the United States Department of Transportation or any federal agencies succeeding to its jurisdiction.

V. "Fiscal Year" shall mean the twelve (12) month period beginning on July 1st of any calendar year and ending on June 30 of the following year, or any other period adopted by CITY for its financial affairs.

W. "Maximum Gross Certificated Landing Weight" shall mean the maximum weight, in 1,000 pound units, at which each aircraft as operated by AIRLINE is certificated by the FAA.

X. "Non-signatory Airline" shall mean airlines providing Air Transportation service to and from the Airport that have not executed this or a substantially similar agreement with CITY covering the use and occupancy of facilities at the Airport.

Y. "Operating Expenses" shall mean the current expenses of CITY properly paid or accrued in administering, operating, maintaining or repairing the Airport. Without limiting the generality of the foregoing, the term Operating Expenses shall include (a) costs of collecting Airport Revenues and of making any refunds therefrom lawfully due others; (b) engineering, consulting services, audit reports, legal and other overhead expenses related to the administration, operation, maintenance and repair of the Airport; (c) costs of salaries, wages and other compensation of officers, and employees with respect to the Airport, including all legally required payments to pension, retirement, health and hospitalization funds and other insurance, including self-insurance, if any, for the foregoing; (d) costs of routine maintenance, repairs, replacements, renewals and alterations not constituting Capital Improvements occurring in the usual course of business, which may include expenses not annually recurring; (e) taxes, assessments and other

governmental changes, or payments in lieu thereof, lawfully imposed on the Airport or any part thereof or on the operation thereof; (f) costs of utility services; (g) the costs and expenses of management services and general administrative overhead of CITY properly allocable to the Airport; (h) costs of equipment, materials and supplies used in the ordinary course of Airport business not constituting Capital Improvements including ordinary and current rentals of equipment or other property; (i) issuance costs of Bonds pertaining to the Airport; (j) Bond Amortization; (k) depreciation (to the extent that bond amortization is not applicable); (l) all other costs and expenses, reasonably incurred, of administering, operating, maintaining and repairing the Airport arising in the routine and normal course of business; and (m) all costs and expenses related to the Airport required to be paid (including any reserves required to be kept) in accordance with the Airport's accounting system. Operating Expenses shall not include any costs or expenses associated with the Industrial Park.

Z. "Operation and Maintenance Expenses" or "O & M" shall mean for any period all expenses accrued by CITY for the operation, maintenance, administration and ordinary current repairs at the Airport in order to maintain and operate the Airport in a reasonable and prudent manner.

AA. "Personal Property" shall mean any equipment, inventory, furniture, or supplies owned or leased by AIRLINE (except to the extent that the same may be leased by AIRLINE from CITY) and used at Airport in the conduct of AIRLINE's Air Transportation business which is easily removable from AIRLINE's leased premises.

BB. "Public Areas" shall mean those Terminal Complex areas that are not leased to any person, company or corporation, and are open to the general public.

CC. "Ramp Area" shall mean the aircraft parking and maneuvering areas adjacent to the Terminal, and shall include within its boundaries all Aircraft Aprons, including those areas assigned for use as overnight parking positions

DD. "Rules and Regulations" shall mean those rules, regulations, and ordinances promulgated by CITY, and not inconsistent with this Agreement, as the same may be amended, modified, or supplemented from time to time.

EE. "Scheduled Air Carriers" shall mean any Air Transportation Company performing or desiring to perform, pursuant to published schedules, commercial air transportation services over specified routes to and from the Airport and holding the necessary authority from the appropriate Federal or state agencies to provide such transportation.

FF. "Signatory Airlines" shall mean airlines providing Air Transportation of passengers or property by air to and from the Airport that have executed substantially similar agreements with CITY covering the use and occupancy of facilities at the Airport.

GG. "Special Purpose Facility" shall mean any specific improvement undertaken by CITY for the benefit of one or more airlines or other Airport tenants or prospective tenant under the terms of a separate agreement that provides for, among other things, the payment of rentals or fees for the use or occupancy thereof

in sufficient amounts to permit the financing of such improvement and payment of all costs thereof solely from such rentals or fees.

HH. "Total Landed Weight" shall mean the sum of the Maximum Gross Certificated Landing Weight for all the AIRLINE's Aircraft Arrivals over a stated period of time. Said sum shall be rounded up to the nearest thousand pound unit for all landing fee computation.

II. "Total Landed Weight of the Signatory Airlines" shall mean the sum of the Maximum Gross Certificated Landing Weight for all of the Signatory Airlines' Aircraft Arrivals over a stated period of time.

JJ. "TSA" shall mean the Transportation Security Administration, and its authorized successors.

ARTICLE 2  
USE OF AIRPORT AND FACILITIES

Section 2.01. Premises

- A. Lessor hereby leases to Lessee and Lessee hereby hires and takes from Lessor, Cargo Building located and the associated apron area, as shown on the plan or sketch attached hereto and marked Exhibit "A" (specifically made a part hereof and incorporated herein), containing approximately 9,000 s.f. of building space and 84,250 s.f. of apron space.
- B. CITY shall have the right to adjust and/or reallocate all or any portion of the Airline Premises, if required.

Section 2.02. Permitted Uses

A. Subject to the terms and conditions hereof and the Rules and Regulations of CITY, AIRLINE shall be entitled to use, in common with others authorized to do so and at its own expense, areas, other than areas leased preferentially or exclusively to others, or otherwise reserved for the exclusive use of CITY, facilities, equipment, and improvements at the Airport for the operation of AIRLINE's Air Transportation business. Said use, without limiting the generality hereof, may include:

1. The sale, handling, loading, unloading and providing of mail, freight and package transporting, delivery and express service.

2. The repairing, maintaining, conditioning, servicing, testing, or parking of aircraft or aircraft-related equipment operated by AIRLINE or any affiliate or other Air Transportation company in designated areas (provided that any such Air Transportation company must have a valid contract with CITY relative to the furnishing of such services at the AIRPORT); provided, however, that such right shall not be construed as authorizing the conduct of a separate business by AIRLINE, but shall permit AIRLINE to perform such functions incidental to its conduct of Air Transportation.

3. The ground training on the Airport of personnel in the service of, employ of or to be employed by AIRLINE; provided that such right shall not be construed as authorizing the conduct of a separate business by AIRLINE but shall permit AIRLINE to perform such functions incidental to its conduct of Air Transportation.

4. The sale, lease, transfer, disposal, or exchange of AIRLINE's engines, accessories, and other equipment or supplies; provided, however, that such right shall not be construed (1) to permit AIRLINE to accumulate or store used equipment at the Airport, or (2) to authorize the conduct of a separate business by AIRLINE but shall permit AIRLINE to perform such functions only incidental to the conduct of Air Transportation.

5. The servicing by AIRLINE or by an agent or contractor of its choosing of its aircraft and other equipment operated by AIRLINE, by truck or otherwise, with gasoline, aviation fuel, propellants, oil, greases, lubricants, or other materials or supplies (except that such right of others shall not include the right to operate a separate and distinct business at the Airport, other than a delivery or service business operated with the approval of the Airport Manager, and further provided that any agent or contractor of AIRLINE must have a valid contract with CITY relative to the furnishing of such services at the AIRPORT); provided, however, that AIRLINE may not sell gasoline, fuel or other propellants, oil, greases, or other lubricants, except to a subsidiary or affiliated company or except when the same are of a particular grade desired by others and not otherwise available (except from other Signatory Airlines) at said Airport, or except for use in aircraft of others which are being used in connection with any operations of AIRLINE.

6. The right to land, take off, fly, taxi, tow, load, and unload aircraft property and other equipment used by AIRLINE in its conduct of Air Transportation; provided that flights shall load and unload at the EXCLUSIVE USE PREMISES, as may be determined by the Airport Manager.

7. Within its EXCLUSIVE USE PREMISES , AIRLINE may display logo and other similar signage, as well as decorative signage, subject to the reasonable approval of the Airport Manager. No signage or displays placed by the AIRLINE may be positioned outside of its Leased Premises without the prior written approval of the Airport Manager. Signage and displays shall not impede operations of other airline, aircraft or Airport vehicle or pedestrian circulation within or past AIRLINE Leased Premises.

8. The right to install, maintain, and operate such radio, communication, meteorological, aerial navigation, and computer equipment and facilities required for AIRLINE to provide Air Transportation at the Airport; provided, however, that (1) such equipment does not interfere with other airline or Airport communication, meteorological, or aerial navigation systems; and (2) the type, location, and method of installation of such equipment and facilities is approved by the Airport Manager in writing prior to installation of such equipment and facilities.

9. The right to install, maintain, and operate equipment incidental to conducting AIRLINE's Air Transportation business, subject to the prior written approval of CITY.

10. Ground handling any portion of the operations of another airline or Air Transportation Company, provided AIRLINE shall only

ground handle the aircraft operated by an Air Transportation Company that has entered into an operating agreement with CITY and then only with the prior written approval of the Director of Aviation, which approval shall not be unreasonably withheld. No sublease or temporary use agreement shall release AIRLINE from its obligations to pay all rentals, fees and charges called for by this Agreement or City regulation.

11. The right to install glycol tanks, the location of which shall be subject to the prior written approval of CITY.

B. AIRLINE may perform customary fueling, servicing and line maintenance of its aircraft at assigned aircraft parking positions preparatory to loading and takeoff or following landing or unloading. AIRLINE may perform maintenance on its own aircraft, vehicles, or equipment at places designated by CITY.

C. AIRLINE may exercise on behalf of any other airline having an agreement permitting operations at the Airport any of the rights granted AIRLINE under the terms of this Agreement, so long as AIRLINE is concurrently exercising those rights in the conduct of AIRLINE's own Air Transportation business.

D. Any and all rights and privileges not granted to AIRLINE in this Agreement are hereby reserved for and to CITY.

E. The rights granted in Section 2.01 shall not be construed as permitting any other person or corporation to conduct any business upon the Airport (including the Leased Premises) except pursuant to an agreement with CITY allowing for such

business and by the payment of applicable administrative fees and rentals and charges for any space occupied.

Section 2.02. Airport Uses Limitation

AIRLINE shall not use the Airport or Leased Premises for any purpose other than those identified in Sections 2.02 herein. Without limiting the generality of such use or limitation, the following uses are prohibited:

A. The use of the Airfield Area by any aircraft operated or controlled by AIRLINE which exceeds the design strength or capability of the Airfield Area as described in the current FAA approved Airport Layout Plan or other engineering evaluations performed subsequent to the then current Airport Layout Plan.

B. Anything that may interfere with the effectiveness or accessibility of the drainage, sewerage, water, communications or fire protection systems or any other part of the utility, electrical or other system installed or located from time to time at the Airport.

C. Any act or failure to act by AIRLINE which may cause the cancellation or violate the provisions of CITY's policies of insurance for the Airport or any part thereof or which shall cause a hazardous condition so as to increase the risks normally attendant upon operations permitted by this Agreement. In the event CITY shall determine that AIRLINE has done or permitted to be done either by act or failure to act anything that shall cause an increase in the Airport's insurance premiums for insurance for the Airport or any part thereof, CITY shall serve written notice to AIRLINE of the nature of the act or omission and afford AIRLINE the option

to remedy the cause of the increase, and upon failure of AIRLINE to remedy the cause of the increase, AIRLINE, upon demand by CITY, shall pay the amount of such increase. If such AIRLINE act or failure to act causes the cancellation of any policy, then AIRLINE shall immediately upon notification by CITY take such action as is necessary to permit reinstatement of said insurance.

D. The storage of fuel, blockage of taxiways and/or the parking or placing of any aircraft or vehicles or items in such a manner as to interfere with Airport operations. The use of all refueling trucks, together with their routing and parking, must be approved in advance by the CITY.

#### Section 2.03 Airport Use Summary

A. At the request of the Airport Manager, AIRLINE shall file an Airline Use Summary (“Summary”) with the Airport Manager within 30 days of the date hereof. CITY shall provide AIRLINE with a Summary report form requesting information specified below in regard to AIRLINE’s operations at the Airport. AIRLINE shall maintain a current Summary on file with the Airport Manager.

B. The Summary shall provide the following:

1. Names, addresses, and telephone numbers of AIRLINE officials responsible for station operations, flight operations, properties, and facilities.
2. The current and proposed schedules of AIRLINE’s flight activity at the Airport. AIRLINE shall make reasonable effort to notify the Airport Manager of significant schedule changes or the addition of

flights at the Airport not less than sixty (60) days before the change or addition is scheduled to take place.

3. The description of AIRLINE's fleet and identification of the class of AIRLINE's aircraft that will be present at the Airport. AIRLINE shall provide reasonable notice of the introduction of an aircraft that is not being operated by AIRLINE at the Airport on the date of this Agreement.
4. The identification of AIRLINE's anticipated facilities requirements at the Airport.

#### ARTICLE 4 TERM AND AIRLINE SERVICE

##### Section 4.01. Term

The term of this Agreement shall be for a period of five (5) years, two (2) months, commencing May 1, 2013 and terminating at midnight on June 30, 2017, unless sooner terminated as hereinafter provided.

##### Section 4.02. Renewal

Provided Lessee is not in default or violation of any of the terms and/or conditions of this Agreement and subject to the express prior approval of the Burlington City Council, Lessee has the right to renew the Agreement with the same terms and conditions (unless otherwise agreed upon by the parties) for a period of five (5) years, commencing on July 1, 2017, unless sooner terminated as hereinafter

provided (or as otherwise agreed upon by the parties), with the exception of the escalated amount set forth in Article 6

Section 4.02. Airline Service

The parties recognize that a substantial consideration to CITY for entering into an agreement for the use of its facilities during the term hereof is the continued operation by AIRLINE of scheduled Air Transportation at the Airport during such term. Accordingly, should AIRLINE fail to operate scheduled cargo air transportation departures from the Airport, for a period of sixty (60) days or more (except by reason of strikes or causes beyond the control of AIRLINE), this Agreement may be terminated by CITY for failure of consideration upon thirty (30) days written notice to AIRLINE; provided, however, that should AIRLINE, before the expiration of such thirty (30) day period, resume scheduled service on a continuing basis, then such notice shall be void and of no effect.

Section 4.03. Holding Over

A. In the event AIRLINE shall continue to occupy the Leased Premises beyond the term of this Agreement, or any extension thereof, without CITY's written authority, such holding over shall not constitute a renewal or extension of this Agreement, but shall create a tenancy from month to month which may be terminated at any time for no cause by CITY or AIRLINE by giving thirty (30) days written notice to the other party.

B. AIRLINE further agrees that upon the expiration of the term of this Agreement or prior termination or cancellation thereof, the Leased Premises will be

delivered to CITY in as good condition as they were at the beginning of the agreement, reasonable wear and tear and damage excepted.

ARTICLE 5  
RENTALS, CHARGES, AND FEES

AIRLINE agrees to pay CITY, without notice or demand and without deduction or setoff, all applicable rentals, additional rentals, charges, and fees set out herein (hereinafter referred to collectively as "Rentals") during the term of this Agreement for its use of the Airline Premises, Airfield Area, facilities, rights, licenses and privileges granted hereunder.

Section 5.01 Exclusive Premises Rental

For and during the Term hereof, Airline agrees to pay Lessor the following annual Rental for the use and occupancy of the Leased Premises and as consideration for the privileges conferred upon Airline by this Agreement, in equal monthly installments on or before the first day of each and every month, at the office of the Director of Aviation. Any rental amount payable which shall not have been paid by the first day of the month to which it applies shall bear interest at the rate of one and a half percent (1 1/2%) per month, which interest shall be paid by Lessee in addition to rental amount.

- A. Building: Eighteen Thousand (\$18,000).
- B. Ground Rental: Twenty Nine Thousand and Four Hundred Eighty Seven Dollars and 50/100 (\$29,487.50) per annum, adjusted by the application on any change in the value of dollar from January of the proceeding year

to January of the current year according to the Consumer Price Index for all Urban Consumers, published by the Bureau of Labor Statistics of the United States Department of Labor. In no event shall the new rates be less than the immediately preceding rate. As a time lapse occurs in the issuing of the Consumer Price Index, all adjustments shall be retroactive to the beginning of each new lease year.

In the event that the United States Department of Labor discontinues publication of the Consumer Price Index or data from which the index can be directly computed, or if the method for the determination of such is substantially different than that existing at the time this Agreement is executed, the basis for the rental rate adjustment shall be redefined by City in the manner necessary to accomplish the same adjustment objectives as set forth herein.

#### Section 5.02 Landing Fees

As of the effective date of this Agreement, Rentals for the use of the remaining facilities, rights, licenses, and privileges granted to AIRLINE under Articles 2 and 3 hereof, except as provided elsewhere herein, shall be combined in and represented by a monthly landing fee (hereinafter referred to as the "Landing Fee"), which shall be calculated and determined as follows: A Landing Fee Rate per thousand pounds shall be multiplied by AIRLINE's Total Landed Weight for the month. Subject to the provisions of Article 6 hereof, the fiscal 2013 Landing Fee

Rate shall be \$1.75 per thousand pounds. The Landing Fee Rate for Non-signatory Airlines shall not be less than the rate applicable to Signatory Airlines multiplied by 125%.

Section 5.03 Building Renewal Rental as of 2018

Building: Twenty Thousand and Three Hundred Forty Dollars (\$20,340)

Section 5.04. Equipment Charges

AIRLINE's charges for CITY provided services/equipment, such as snow removal, shall be based on the Capital Charges and O&M costs incurred by CITY therefor as reference in Exhibit C.

Section 5.05 Cargo Screening Charges

If DHS, TSA, FAA or another governmental authority elects to impose or levy a charge upon CITY for cargo screening activities at the Airport at any time during the Term of this Agreement, then CITY, in addition to any other charges, fees, etc., shall have the right to recover such passenger screening charges on a prorated basis from AIRLINE and every other Scheduled Air Carrier at the Airport, upon demand.

Section 5.06. Other Fees and Charges

A. CITY expressly reserves the right to assess and collect the following:

1. Reasonable and non-discriminatory fees and charges for services or facilities not enumerated in this Agreement, imposed by CITY and accepted by AIRLINE.

2. Pro-rata shares of any charges for the provision of any services or facilities which CITY is required to provide by any governmental entity (other than CITY acting within its proprietary capacity) having jurisdiction over the Airport.

B. CITY reserves the right to charge AIRLINE or its employees a reasonable fee for the employee parking area(s) provided at the Airport.

C. AIRLINE shall pay charges for other services, equipment, facilities improvements not enumerated herein, but provided by CITY to AIRLINE at AIRLINE's request, or to meet the needs of AIRLINE. Such services, equipment, facilities improvements may include, but are not limited to, special maintenance of Airline Premises, Federal Inspection Services (FIS) facility fees, electrical charges, or equipment/vehicle storage areas.

D. AIRLINE shall pay the required fees for all permits and licenses necessary for the conduct of its Air Transportation business at the Airport. AIRLINE shall also pay all taxes, assessments, and charges, which during the Term of this Agreement may become a lien or which may be levied by the State, City of South Burlington, or any other levying body, upon any interest by AIRLINE acquired in this Agreement, or any possessory right which AIRLINE may have in or to the premises or facilities leased hereunder, or the improvements thereon, by reason of its occupancy thereof, or otherwise, as well as taxes, assessments, and/or charges on property, real or personal, owned by AIRLINE in or about said premises.

Section 5.07. Time and Place of Payments

A. Exclusive Use Premises Rentals shall be paid in equal monthly installments in advance on or before the first business day of each month to which it applies and shall be subject to adjustment as provided in Article 6.

B. "Landing Fee" charges shall be payable no later than the last day of each month for the preceding calendar month of operations and shall be subject to adjustment as provided in Article 6.

C. All of the above payments shall be made at the office of the Airport Manager, Burlington International Airport, 1200 Airport Drive, #1, South Burlington, Vermont 05403 or other such place as may hereafter be designated by CITY.

Section 5.08. Additional Rent

CITY, after due notice to AIRLINE, may, but is not obligated to, cure any default on AIRLINE'S part in fulfilling AIRLINE'S covenants and obligations under this Agreement. Any amounts paid or costs incurred by CITY to cure any such default are hereby agreed and declared to be "Additional Rent". Unless otherwise provided herein, all Additional Rent shall be due and payable on the later to occur of fifteen (15) days after receipt by AIRLINE of an invoice therefore or with the next succeeding installment of monthly rent due under this Agreement.

Section 5.08. Records of AIRLINE

A. AIRLINE shall keep and maintain a complete and accurate set of records of all the Landing Weights and cargo weight, for the use of the Airport and payment of fees required under this Agreement, for three (3) years, and shall make such records available for inspection and copying by CITY or its authorized representative

at the Airport at any and all reasonable hours and times and upon reasonable notice. Unless required by law, such records shall not be disclosed or published to any third party and shall not be used for any purposes except as set forth in this Agreement.

B. CITY shall have the right, at its expense and on reasonable notice, from time to time, to audit the records and other data of the AIRLINE relating to the provisions and requirements hereof, provided such inspection is made during regular business hours. In the event that a discrepancy of five percent or more is found in the records identified in Section 5.08A herein then AIRLINE shall pay the full cost of the audit, upon demand.

Section 5.09. Interest on Past Due Accounts

There shall be added to all sums due CITY subsequent to the execution date of this Agreement and unpaid as of the Due Date, an interest charge of one and one-half percent (1 1/2%) per month of the principal sum computed as simple interest computed from the Due Date.

Section 5.10 Payment Under Protest

Notwithstanding anything to the contrary in this Agreement, if a dispute arises between CITY and AIRLINE with respect to any obligation or alleged obligation of AIRLINE to pay money, the payment under protest by AIRLINE of the amount claimed by CITY to be due shall not waive any of AIRLINE's rights, and if any court or other body having jurisdiction determines that all or any part of the protested payment was not due, then CITY shall as promptly as reasonably practicable

reimburse AIRLINE any amount determined as not due plus interest at a rate equal to the rate which CITY realizes by having the money on deposit.

Section 5.11 Right of Set Off

CITY shall have the right to set off any past due amount(s) by applying all or a portion of current payments to such past due amount(s). Past due amounts may include sums due on prior agreements, this Agreement, or for usage of the Airport as a non-signatory Airline. In the event CITY exercises this right, it shall notify the AIRLINE. AIRLINE shall be responsible for immediately submitting such a sum as will reflect the total amount needed to satisfy current amounts due.

Section 5.12 Security Deposit

A. AIRLINE shall provide CITY on the Effective Date of this Agreement with a surety bond or Irrevocable Standby Letter of Credit acceptable to CITY (“Contract Security”) in an amount equal to three (3) months’ rentals, fees and charges payable by AIRLINE pursuant to this Article 5, to guarantee the faithful performance by AIRLINE of its obligations under this Agreement and the payment of all rentals, fees and charges due hereunder. The amount of said Contract Security shall be determined and subject to adjustment by CITY based upon AIRLINE’s payment and performance record with CITY, length of continuous service to and from the Airport as a Signatory Airline, and financial stability of AIRLINE. AIRLINE shall be obligated to maintain such Contract Security in effect throughout the Term of this Agreement and any extension hereof. Such Contract Security shall be in a form and with a company reasonably acceptable to CITY and licensed to do business in the State of

Vermont. In the event that any such Contract Security shall be for a period less than the full period required by this Paragraph or if Contract Security shall be canceled, AIRLINE shall provide a renewal or replacement Contract Security for the remaining period at least sixty (60) days prior to the date of such expiration or cancellation.

B. CITY may, in its sole discretion, temporarily waive the Contract Security required hereunder for such period of time as the following conditions are continuously met by AIRLINE:

1. AIRLINE provides regularly scheduled flights to and from the Airport during eighteen (18) consecutive months with no payment delinquency or default and without the occurrence of any act of omission that would be deemed an event enumerated in Section 13.01 of this Agreement; and
2. AIRLINE demonstrates continuous profitability for a minimum of eight (8) consecutive quarters, as shown in AIRLINE's Quarterly Certified Statement of Net income filed with the Securities and Exchange Commission.

C. In the event CITY is required to draw down or collect against AIRLINE's Contract Security for any reason, AIRLINE shall, within ten (10) business days after CITY's written demand, take such action as may be necessary to replenish the existing Contract Security to its original or adjusted amount and/or to provide additional or supplemental Contract Security from another source so that the aggregate of all Contract Security is equal to the required amount as determined by CITY.

D. Upon the occurrence of any AIRLINE act or omission that is an event enumerated in Section 13.01, or upon AIRLINE's election to assume this Agreement under Federal Bankruptcy Rules and Regulations and Federal Judgeship Act of 1984 or any successor statute, as such may be amended, supplemented, or replaced, CITY, by written notice to AIRLINE given at any time within ninety (90) days of the date such event becomes known to CITY, may declare AIRLINE in default of this Agreement and may require additional Contract Security to ensure AIRLINE's performance of its obligations pending the cure of such default. In such event, AIRLINE shall provide CITY with the required additional Contract Security within ten days of its receipt of such written notice and shall thereafter maintain such Contract Security in effect.

E. If AIRLINE shall fail to obtain and/or keep in force Contract Security required hereunder, such failure shall be grounds for immediate cancellation of this Agreement. CITY's rights under this Section shall be in addition to all other rights and remedies provided to CITY under this Agreement.

F. AIRLINE and CITY agree that this Agreement constitutes an "executory contract" for the purposes of Section 365 of the United States Bankruptcy Code (Title 11 USC) subject to assumption or rejection, as provided in said Section 365. Furthermore, AIRLINE and CITY agree that any Contract Security provided by AIRLINE are not "property of the estate" for purposes of Section 541 of the United States Bankruptcy Code (Title 11 USC), it being understood that any Contract Security is property of the third party providing it (subject to CITY's ability to draw

against the Contract Security) and that all charges collected by AIRLINE are property of the CITY.

ARTICLE 6  
RECALCULATION OF RENTALS, CHARGES AND FEES

Section 6.01. Effective Date of Recalculations

Landing Fees and apron rental rates as set forth in Article 5, shall be adjusted annually during the term of this Agreement as hereinafter set forth. Said adjustments pursuant to this Article shall apply without the necessity of formal amendment of this Agreement. A statement showing the calculation of the new rates for landing and apron fees as shown in Exhibit F shall be prepared by CITY and transmitted to AIRLINE. Said statement shall then be deemed part of this Agreement and effective on the first (1st) day of each Fiscal Year to which they apply.

Section 6.02. Records of Airport Cost Centers

CITY shall maintain accounting records that will reflect the following items for each of the Airport Cost Centers: (1) annual revenues; (2) maintenance and operating expenses (including administrative expenses) of the Airport; and (3) all other expenses of Airport. CITY shall further maintain records evidencing the allocation of capital funds obtained from the proceeds of Bonds or other capital fund sources to each Airport Cost Center. Included in the allocation to each Airport Cost Center shall be its proportionate share of the expenses of Bond issuance,

capitalized interest and the funding of special funds, determined with reference to the allocation of costs funded through Bonds or other capital fund sources.

AIRLINE may audit the above records on an annual basis during usual business hours and without cost or expense to CITY.

Section 6.03. Reports by CITY and AIRLINE

A. On or before March 1 of each year, the Signatory Airlines (including AIRLINE) shall submit to CITY, in writing, their Maximum Gross Certificated Landing Weight forecast for the succeeding Fiscal Year.

B. Not later than May 1st of each year, CITY shall prepare and submit to AIRLINE the following reports:

1. CITY's proposed Annual Budget for the succeeding Fiscal Year reflecting all estimated Airport operating and maintenance expenses, administrative expenses and all proposed outlays for Capital Improvements for the Airport for the succeeding Fiscal Year. The proposed Annual Budget shall include a statement of estimated Airport Operating Revenues.

2. A schedule of principal and interest payments required to be made during the succeeding Fiscal Year plus Coverage.

3. A preliminary calculation of the Rentals to be paid by Airline for the succeeding Fiscal Year.

4. Required deposits to bond funds.

C. Before the beginning of the Fiscal Year, CITY shall adopt an Annual Budget. Such Budget and Rentals shall take into account CITY's discussions with AIRLINE. CITY shall give consideration to any suggestions, comments, or requests of the Signatory Airlines, but shall retain the right to make all final decisions with respect to the Budget and Rentals. Upon adoption of the Annual Budget City shall furnish the Signatory Airlines with the calculation of Rentals that shall become effective upon the beginning of the Fiscal Year.

D. If an Annual Budget is not adopted by CITY before the beginning of such Fiscal Year, the Rentals in effect during the preceding calendar year shall remain in effect until (1) a new Annual Budget has been adopted by CITY and (2) CITY has calculated the Rentals in accordance therewith. The new Rentals shall then be in effect retroactively to the beginning of such Fiscal Year.

E. CITY retains the responsibility and expressly reserves the right to make all final decisions with respect to the Annual Budget. Such decisions shall be consistent with the terms and conditions of this Agreement.

#### Section 6.04. Calculation of Rates

In establishing rental rates, CITY shall:

A. It is agreed that the Cargo Building Rental Rate applicable through FY'2017 shall be \$18,000 and from FY'2018 to FY'2022 shall be \$20,340.

B. It is agreed that the Exclusive Premises Ground Rental Rate applicable through FY'2013 shall be \$.37.

C. If in any Fiscal Year CITY shall fail through the imposition of the rentals provided for hereunder to recover the full amount of the costs properly allocable to the Ground Rental during such Fiscal Year, then the amount of the deficit shall be carried forward as an additional item of allocable cost in computing the rentals for the Fiscal Year next following. Conversely, if in any Fiscal Year CITY shall recover through the imposition of rentals provided for hereunder revenues exceeding the full amount of the costs properly allocable to the Ground Rental during such Fiscal Year, then CITY shall carry forward the amount of this surplus as an offset to allocable costs in computing the rentals for the Fiscal Year next following.

D. The Landing Fee rate shall be calculated annually by dividing the Airfield Area Operating Expense by the composite estimate of the Total Landed Weight of Signatory Airlines for the succeeding Fiscal Year. Whenever a calculation involves an estimate, the estimate of CITY shall be used and shall be based on past performance and reasonable future expectations. CITY shall make final adjustments for overpayments or underpayments of the Landing Fee rate based upon actual audited figures for the preceding Fiscal Year and shall carry forward any credit for overpayment or debit for underpayment in calculating Landing Fee rates for the Fiscal Year next following.

E. It is agreed that the Landing Fee Rate applicable through Fiscal Year 2013 shall be \$1.75.

Section 6.05 No Other Fees and Charges

Except as provided in this Agreement, no further rentals, fees, licenses, excise or operating taxes, tolls or charges shall be charged against or collected from AIRLINE, its shippers and receivers of freight and express; its suppliers and material, contractors, or furnishers and services, by CITY for the premises, facilities, rights, licenses and privileges granted to AIRLINE in this Agreement; provided, however, that the foregoing shall not be construed to prohibit the CITY from imposing and collecting charges and fees (a) for the use of specified equipment or facilities at the Airport to recover the cost of such equipment or facilities, (b) for the use of the public parking areas at the Airport, (c) from operators of ground transportation to, or from and on the Airport, (d) from any concessionaire at the Airport in accordance with the terms of a contract with the CITY for the operations of such Concession, and (e) from any person, other than an Air Transportation business, for access to the Airport for the conduct of its business; and provided further, that the CITY reserves the right to impose and use a Cargo Weight Charge as provided for in Section 5.11; and provided, further, that the foregoing shall not apply to any taxes, permits or license fees levied or imposed by the CITY.

#### ARTICLE 7 BOND RESOLUTION

CITY shall not adopt any Bond Resolution or subsequently amend a Bond Resolution so as to require a change in the method of calculation of Rentals payable hereunder or so as to materially affect the rights of AIRLINE hereunder. If CITY adopts a Bond Resolution or a subsequent amendment to a Bond Resolution, either

of which materially affects the method of calculation of AIRLINE Rentals or materially affects the rights of AIRLINE hereunder, AIRLINE may, in writing, cancel this Agreement within thirty (30) days after the adoption date of the Bond Resolution or amendment thereto by the CITY.

## ARTICLE 8 MAINTENANCE AND OPERATION OF AIRPORT

### Section 8.01. General

CITY agrees that it will with reasonable diligence prudently develop, improve, and at all times maintain and operate the Airport with adequate, efficient, and qualified personnel and keep Airport in good repair including, without limitation, the Exclusive Use Premises, Apron and Taxiway Area, and all appurtenances, facilities, and services now or hereafter connected therewith as the same relate to AIRLINE's Air Transportation system; will keep Airport and its aerial approaches free from obstruction and interference for the safe and proper use thereof by AIRLINE in accordance with FAA standards and will develop, maintain and operate Airport in all respects in a manner at least equal to the standards or rating established by the FAA and any other governmental agency having jurisdiction thereof, except for conditions beyond the control of CITY.

Section 8.02. Exclusive Use Premises A. CITY shall operate and maintain and keep in good condition and repair the Exclusive Use Premises and all additions, improvements, utilities, facilities, and equipment now or hereafter provided by CITY

at or in connection with the Exclusive Use Premises except any improvements, facilities, and equipment constructed or installed by AIRLINE including but not limited to any connecting fixtures or services installed by AIRLINE.

B. CITY shall supply or cause to be supplied appropriate and adequate equipment and maintenance for air conditioning, ventilation, heat, water, and sewerage facilities for Exclusive Use Premises building to be used exclusively by AIRLINE.

C. AIRLINE shall make no changes of any nature or character in or additions to the Exclusive Use Premises without advance written approval of CITY, which approval will not be unreasonably withheld. AIRLINE shall submit for prior written approval by CITY its plans and specifications for any proposed project as well as complying with such other conditions considered by CITY to be necessary.

In the event that AIRLINE makes further improvements or alterations to the Exclusive Use Premises, the use thereof shall be enjoyed by AIRLINE during the term hereof without additional rental therefore, except for any increase in maintenance and operating expense resulting from such improvement or alteration, which shall be the responsibility of AIRLINE. Such additions, alterations or improvements except Personal Property shall become the property of CITY upon the completion of the construction.

D. AIRLINE is responsible for maintaining electric loads within the designed capacity of the system. Prior to any change desired by AIRLINE in the

electrical loading which would exceed such capacity, written consent shall be obtained from the Airport Director.

E. AIRLINE shall provide and maintain hand fire extinguishers for the interior of Exclusive Use Premises building that it occupies in accordance with applicable safety codes.

F. AIRLINE shall repair, at its expense, or at AIRLINE's option reimburse CITY for the cost of repairing, replacing, or rebuilding any damage to Exclusive Use Premises or other portions of the Exclusive Use Premises caused by the negligent or willful acts or omissions of AIRLINE or its officers, employees or agents. In the event that replacement is required due to lack of maintenance and/or cleaning by AIRLINE, AIRLINE shall be responsible for all costs associated with said replacement. Any repairs or replacements made by AIRLINE shall be subject to inspection and approval by CITY. See Exhibit G for a list of facilities that are AIRLINE's responsibility.

G. AIRLINE shall repair, at its expense, or at AIRLINE's option reimburse CITY for the cost of repairing, replacing, or rebuilding any damages to its Exclusive Use Premises that are not specifically caused by the acts or omissions of CITY or its officers, employees or agents. Any repairs made by AIRLINE shall be subject to inspection and approval by City.

H AIRLINE shall repair, at its expense, or at AIRLINE's option reimburse CITY for the cost of repairing, replacing, or rebuilding any damage to overhead or

access doors caused by the acts or omissions of AIRLINE or its officers, employees or agents.

I. AIRLINE is responsible for distribution and fixtures as relates to blockages caused by AIRLINE or its officers, employees or agents and AIRLINE shall repair, at its expense, or at AIRLINE's option reimburse CITY for the cost of repairing, replacing, or rebuilding any damage resulting from said blockage.

Section 8.03. Maintenance of the Apron Area

A. AIRLINE shall remove to the extent reasonably practicable all accumulations of oil and grease caused by AIRLINE's aircraft and other vehicles while operating on the Exclusive Use Apron Area.

B. AIRLINE shall maintain in a neat, clean and orderly manner the portions of the Exclusive Use Premises and Apron Area occupied by AIRLINE's apron service equipment. Piling of boxes, cartons, barrels, pallets, debris, disabled or idle equipment or similar items on or about the Leased Premises, shall not be permitted.

C. AIRLINE shall paint aircraft apron and parking positions as approved by CITY in writing to guide AIRLINE's ground equipment, aircraft, and passengers if desired by AIRLINE, or required for proper positioning of the aircraft within designated parking positions. The foregoing provisions do not, however, prevent CITY from painting such markings as it shall deem necessary for aircraft operations.

D. CITY agrees to maintain the Airfield Area in good condition and repair. Such obligation shall include snow removal from runways and taxiways; provided, however, that the extent of such obligation as to snow removal from the Apron Area

shall be limited to general snow removal required for the operation of aircraft and ground equipment, and shall be limited to the area beginning 50 feet out from any building. To the extent possible, and to the extent that such snow removal is required for the operation of aircraft and ground equipment, CITY agrees to assist AIRLINE with snow removal in the area within fifty feet from building; provided, however, that CITY shall not be liable for any failure to do so. AIRLINE shall provide safe passageway for its employees and crew from the aircraft to the Exclusive Use Premises, including but not limited to the removal of snow, and shall indemnify CITY pursuant to Section 11.03 against any claims based upon a failure to provide safe passageway. CITY shall, during the term hereof, operate and maintain the Airport in all respects in a manner and in accordance with such recommended standards for airports of similar size and character as may be issued by the FAA.

E. AIRLINE shall pick up and place all its trash and debris in sealed bags; and shall move such debris to an enclosed trash room or other receptacle to be provided by CITY. AIRLINE shall comply with all applicable recycling laws and regulations.

F. If AIRLINE fails to perform its obligations under this Article 8, CITY may do so after reasonable notice(not less than fifteen (15) days), and recover its entire cost for doing so, plus a twenty percent (20%) administrative charge to AIRLINE as an additional charge on the rent due.

#### Section 8.04. Ownership of Improvements

Upon completion of or installation of any permanent addition or leasehold improvement, excluding Personal Property as defined in Article 1, on the Leased Premises, such permanent addition or leasehold improvement shall immediately become the property of CITY, as owner, subject only to the right of AIRLINE to use same during the term of this Agreement and shall remain the property of CITY thereafter with the sole right, title and interest thereto unless otherwise specified in CITY's approval of the improvement.

Section 8.05. Liens

AIRLINE shall cause to be removed promptly any and all liens of any nature arising out of or because of any construction or other services performed by AIRLINE or any of its contractors or subcontractors upon the Leased Premises or arising out of or because of the performance of any work or labor by or for it or them at the Airport, reserving the right to contest in court the validity of any such liens. AIRLINE shall have the right to post an appropriate bond to cover its obligations pursuant to this section.

In the event any person or corporation shall attempt to assert any lien (mechanic's or otherwise) against the Leased Premises for improvements made by AIRLINE, AIRLINE shall hold CITY harmless from such claims, including all costs and fees of defense.

Section 8.06. Payment of Taxes

AIRLINE shall pay all lawful taxes, assessments or charges (including but not limited to any property tax or tax on improvements) which during the term of this

Agreement may become a lien on the Airport or be levied upon any interest in AIRLINE's Leased Premises or any possessory right which AIRLINE might have in or to said Premises or any improvements thereof, by reason of its use or occupation thereof or otherwise, reserving to AIRLINE, however, the right to contest, by administrative proceeding, court or otherwise the validity or applicability of any such tax, assessment or charge. AIRLINE is responsible for staying apprised of any changes in any such taxes, assessments or charges. CITY shall assist in providing such information as may be requested by AIRLINE and required by such proceeding. Such payment shall not be considered part of the Airport Operating Revenue.

Section 8.07. Payment of Utility Charges

AIRLINE shall pay promptly for all utilities and utility services used by AIRLINE at or in AIRLINE's Leased Premises in excess of those utility services specifically provided by CITY.

Section 8.08. Employees of AIRLINE

AIRLINE shall require all of its officers, agents, employees, subcontractors, or independent contractors hired by AIRLINE working in view of the public and about the Exclusive Use Premises to conduct themselves in an orderly and professional manner, to wear clean and neat attire and to display appropriate identification.

AIRLINE shall require all of its officers, agents, and employees to use designated employee parking only.

Section 8.09. Civil Rights

AIRLINE covenants that it will undertake an Affirmative Action Program as required by a consent decree or Title 14, Code of Federal Regulations, Federal Aviation Administration, Part 152, Subpart E, to ensure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from participating in any employment activities in 14 CFR, Part 152, Subpart E. AIRLINE shall assure that no person shall be excluded on these grounds from participating in, or receiving the services, or benefits, of any program or activity covered by this Subpart.

AIRLINE covenants that it will require that covered organizations provide assurance to AIRLINE that they will undertake Affirmative Action Programs, and that they will require assurance from their suborganization, as required by 14 CFR, Part 152, Subpart E, to the same effect.

In the event of AIRLINE's breach of any of the foregoing covenants, CITY shall have the right to terminate this Agreement after service of written notice upon AIRLINE in accordance with Section 13.01 (10); and to re-enter and repossess said land and the facilities thereon, and hold the same as if said Agreement had never been made or issued.

Section 8.10. Nondiscrimination

AIRLINE for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person, on the ground of race, color, sex or national origin, shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) in the

construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, sex or national origin, shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) AIRLINE shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.

That in event of breach of any of the above nondiscrimination covenants, CITY shall have the right to terminate this Agreement after service of written notice upon AIRLINE in accordance with Section 13.01 (10), and to re-enter and repossess said land and facilities thereon, and hold the same as if said Agreement had never been made or issued.

Section 8.11. Rules and Regulations

A. AIRLINE shall not use or permit the use of any Airport facilities for any purpose or use other than those specifically authorized by this Agreement, and such other purposes or uses as may be mutually agreed upon in writing.

B. AIRLINE shall comply with and shall require its officers, agents and employees and any other persons over whom it has control to comply with such reasonable and non-discriminatory rules and regulations governing the use of Airport facilities pursuant to this Agreement as may from time to time be adopted

and promulgated by CITY including, but not limited to, health, safety, environmental concern, sanitation, and good order, and with such amendments, revisions, or extensions thereof as may from time to time be adopted and promulgated by CITY.

C. AIRLINE's right of access to the Airport shall be subject to all federal, state and local laws or regulations and all Airport rules, regulations, and ordinances, now in effect, or hereinafter adopted or promulgated.

D. AIRLINE shall, at all times, maintain its Leased Premises in compliance with any and all present and future laws, ordinances, and general rules or regulations of any public or governmental authority now or at any time during the term of this Agreement in force relating to the environment, sanitation, or public health, safety or welfare.

F. Nothing herein contained shall be construed to prevent AIRLINE from contesting the validity or applicability of any federal, state or local law, regulation, or ordinance now in effect or hereinafter adopted or promulgated and AIRLINE shall not be deemed to be in default of any requirement of this Agreement so long as such contest is diligently prosecuted in an appropriate forum by AIRLINE or any other party to a similar agreement having interests consistent with those of AIRLINE, or until 30 days following the entry of a final judgment contrary to AIRLINE's position. However, should AIRLINE contest the validity or applicability of any tax or fee, the payment of which might constitute a lien on the Airport facilities, CITY may require (and if so, Airline shall undertake) the posting of a bond or placing in escrow

of the amount of such tax or fee pending the outcome of such contest in order to avoid the imposition of such lien.

Section 8.12. Removal of Disabled Aircraft

AIRLINE shall promptly remove any of its disabled aircraft from any part of the Airport (including, without limitation, runways, taxiways, aprons, and gate positions) and place any such disabled aircraft in such storage areas as may be designated by CITY. AIRLINE may store such disabled aircraft only for such length of time and on such terms and conditions as may be established by CITY. If AIRLINE fails to remove any of its disabled aircraft promptly, CITY, following reasonable notice to AIRLINE and reasonable opportunity to remove, may, but shall not be obligated to, cause the removal of such disabled aircraft, provided, however, the obligation to remove or store such disabled aircraft shall not be inconsistent with federal laws and regulations, and shall be performed in a reasonable manner by CITY, and AIRLINE agrees to reimburse CITY for all costs of such removal plus a twenty percent (20%) administrative charge, and AIRLINE further hereby releases CITY from any and all claims for damage to the disabled aircraft or otherwise arising from or in any way connected with such removal by CITY.

Section 8.13. License Fees and Permits

AIRLINE shall obtain and pay for all licenses, permits, fees or other authorization or charges as required under federal, state or local laws and regulations insofar as they are necessary to comply with the requirements of this Agreement and the privileges extended hereunder.

ARTICLE 9  
OBLIGATIONS OF CITY

Section 9.01. Operation as a Public Airport

CITY covenants and agrees that at all times it will operate and maintain the Airport as a public airport in a reasonably prudent manner and consistent with and pursuant to the sponsor's assurances given by CITY to the United States government under the Federal Airport Act and consistent with the terms and conditions of this Agreement.

Section 9.02. Access to Exclusive Use Premises

Upon payment of the rent and other fees and charges hereunder and the faithful performance of the covenants of this Agreement, AIRLINE and its officers, employees, passengers, prospective passengers and other persons or firms doing business with it shall have the unobstructed right of ingress to and egress from the Exclusive Use Premises by means of a passageway or other public area or areas designated by CITY for that purpose and connecting the Exclusive Use Premises with a vehicular roadway and walkways adjacent to Cargo Building (and provided and maintained by CITY and connecting with a public street or other public highway outside the Airport), and with the Apron Area adjacent to said building, all of which are more specifically defined in Exhibit A annexed hereto.

The use of the means of access specified shall be in common with such other persons as CITY may authorize or permit, and shall be subject to and in accordance with all applicable local laws and ordinances and such weight and use restrictions,

rules, regulations and ordinances as may be adopted by CITY for the regulation and control of the users thereof.

The access provided for above shall not be used, enjoyed or extended to any person or company engaging in any activity or performing any act or furnishing any service for or on behalf of AIRLINE that AIRLINE is not authorized to engage in, perform or receive under the provisions of this Agreement and applicable laws.

Section 9.03. Prudent Operator

CITY agrees to operate the Airport in a reasonably prudent manner to maximize revenues consistent with its statutory obligations set forth in Section 511 (a) (12) of the Airport and Airway Improvement Act of 1982, 49 U.S.C. Sections 2210 (a) (12) (1982).

ARTICLE 10  
CITY'S RESERVATIONS

Section 10.01. Improvement, Relocation or Removal of Structures

CITY, at its sole discretion, reserves the right to further develop or improve the aircraft operating area and other portions of the Airport, including the right to remove or relocate any structure on the Airport, as it sees fit, and to take any action it considers necessary to protect the aerial approaches of the Airport against obstructions, together with the right to prevent AIRLINE from erecting or permitting to be erected, any structures on the Airport which, in the sole opinion of CITY, would limit the usefulness of the Airport or constitute a hazard to aircraft. CITY shall have the right, upon sixty (60) days advance written notice to Airline and without expense

to Airline to relocate all or part of said demised premises. Said relocated premises shall be of no less area and as conveniently located as is reasonable, considering all demands for space at the Airport. All the terms of this Agreement, except for section 2.01, shall apply to said relocated premises.

Section 10.02. Right to Enter and Make Repairs

CITY and its authorized officers, employees, agents, contractors, subcontractors and other representatives shall have the right (at such times as may be reasonable under the circumstances and with as little interruption to AIRLINE's operations as is reasonably practicable) to enter upon AIRLINE's Leased Premises for the following purposes:

A. To inspect such premises at reasonable intervals during regular business hours (or at any time in case of emergency) to determine whether AIRLINE has complied and is complying with the terms and conditions of this Agreement with respect to such premises.

B. To perform maintenance and make repairs and replacements in any case where AIRLINE is obligated so to do and has failed after notice to do so, in which event AIRLINE shall reimburse CITY for the cost thereof promptly in accordance with Section 5.06

C. To perform maintenance and make repairs and replacements in any case where CITY is obligated so to do; and in any other case where CITY, in its reasonable judgment, determines that it is necessary or desirable so to do in order to preserve the structural safety of such Premises or of the building in which they

are located or to correct any condition likely to cause injuries or damages to persons or property.

D. In the exercise of CITY's police power.

E. No such entry by or on behalf of CITY upon any premises leased to AIRLINE shall cause or constitute a termination of the letting thereof or be deemed to constitute an interference with the possession thereof by AIRLINE; and no such entry upon any premises used by AIRLINE shall constitute an interference with AIRLINE's ability to operate from its Leased Premises.

#### Section 10.03. Airport Access License/Permit

CITY reserves the right to establish a licensing or permit procedure for vehicles and individuals (including but not limited to employees or suppliers of AIRLINE), requiring access to the Airport operational areas, which procedure may include, but not be limited to, background and fingerprint checks. CITY further reserves the right to levy directly against AIRLINE or its suppliers a reasonable regulatory or administrative charge for processing and issuance of such Airport access license or permit.

#### Section 10.04. Subordination to U.S. Government

This Agreement shall be subordinate to the provisions of any existing or future agreement(s) between CITY and the United States, relative to the operation and maintenance of the Airport, the terms and execution of which have been or may be required as a condition precedent to the expenditure or reimbursement to CITY for Federal funds for the operation and development of the Airport.

Section 10.05. War or National Emergency

During the time of war or national emergency, CITY shall have the right to lease the Airport or any part thereof to the United States Government for military use, and if any such lease is executed, the provisions of this Agreement insofar as they are inconsistent with the lease to the Government shall be suspended, and in that event, a just and proportionate part of the rent hereunder shall be abated.

Section 10.06. Airline Employee Parking

CITY may designate areas from time to time to be used for parking of motor vehicles by AIRLINE's employees while working at the Airport. AIRLINE shall require its employees to utilize such areas once designated by the CITY. CITY shall have the right to charge a reasonable fee for such privilege; provided, however, such fee shall be consistent with fees charged other employees of tenants at the Airport.

Section 10.07. Energy Conservation

AIRLINE shall comply with CITY Rules and Regulations pertaining to energy conservation and management to the extent that such Rules and Regulations do not infringe on the rights and privileges granted herein.

ARTICLE 11  
DAMAGE OR DESTRUCTION, INSURANCE AND INDEMNIFICATION

Section 11.01. Destruction of Exclusive Use

If, by reason of any cause, the Exclusive Use is damaged to such an extent that Exclusive Use Premises leased to AIRLINE are untenable in whole, or in substantial part (more than fifty percent), then:

A. If the repairs and rebuilding necessary to restore the Exclusive Use to its condition prior to the occurrence of the damage can, in the reasonable judgment of CITY, be completed within 90 days from the date on which the damage occurred, CITY shall so notify AIRLINE, in writing, and shall proceed promptly with such repairs and rebuilding, and in such event, the rental for Exclusive Use Premises for which provision is made in Article 5 hereof shall be abated pro rata for the period from the date of the occurrence of such damage to the date upon which such repairs and rebuilding are completed.

B. If such repairs and rebuilding cannot, in the reasonable judgment of CITY be completed within said 90 days, CITY, at its option, to be evidenced by notice in writing to AIRLINE, may either: (1) proceed promptly with said repairs and rebuilding, in which event the said rental shall be abated as aforesaid, or (2) terminate the letting of the Exclusive Use Premises, in which event the said rent therefore for which provision is made in Article 5 hereof shall be abated from and after the date of the occurrence of the damage.

C. CITY shall use its reasonable best efforts to provide AIRLINE with alternative space, if necessary, during any repairs, rebuilding, or reconstruction of the Exclusive Use. CITY shall advise AIRLINE as soon as may be practicable regarding CITY's intention with respect to any necessary repairs or restorations.

Section 11.02. Insurance

A. AIRLINE shall, at its sole cost and expense, keep all of its operations at or on the Airport and its obligations to indemnify CITY pursuant to Section 11.03 continuously insured in accordance with this Agreement. The minimum amounts and types of insurance coverage required hereunder shall in no event be construed to limit or modify AIRLINE's obligation to indemnify CITY as set forth in Section 11.03.

B. All insurance shall be in a form and with an insurance company or companies that is reasonably acceptable to CITY. Said insurance shall be in occurrence form, not claims made. Each liability insurance policy shall include severability of interest language, specifying that coverage afforded thereunder applies separately to each insured thereunder. All AIRLINE insurance policies shall name the Airport ("Burlington International Airport") and CITY ("City of Burlington, Vermont") as additional insureds.

All such policies shall provide that such policy may not be materially changed, materially altered, or cancelled by the insurer during its term without first giving at least sixty (60) days written notice to CITY.

Immediately upon execution of this Agreement, AIRLINE shall furnish CITY with evidence of all insurance policies specified in this Section 11.02. On or before the expiration of any then-current policy of insurance, AIRLINE shall deliver to CITY evidence showing that such insurance coverage has been renewed. Within fifteen (15) days after the date of written notice from the insurer of cancellation or reduction

in coverage, AIRLINE shall deliver to CITY evidence showing reinstatement or other provision for the required insurance. All such evidence shall be in the form of certificates of insurance satisfactory to CITY, evidencing coverage as required by this Section 11.02. AIRLINE shall be responsible for any additional costs (including reasonable attorneys fees) to CITY resulting from or arising out of AIRLINE's failure to obtain and maintain the insurance required by this Section 11.02.

C. AIRLINE shall carry and maintain airline liability insurance with respect to all aircraft owned, leased or operated by AIRLINE for bodily injury or death and property damage liability in a combined single limit amount of not less than one hundred million dollars (\$100,000,000) per occurrence and shall include aircraft liability, airport liability and cargo liability. Provided, however, if AIRLINE operates at the Airport only as a Regional/Commuter Air Carrier, AIRLINE shall maintain aircraft liability insurance in a combined single limit amount of not less than fifty million dollars (\$50,000,000) per occurrence. A twenty-five million dollars (\$25,000,000) per occurrence sub-limit for personal injury, bodily injury (including death) and property damage liability shall cover: premises-operation, medical payments, contractual liability, liability of independent contractors, personal injury, and fire legal liability.

D. AIRLINE shall carry and maintain comprehensive automobile liability insurance for all owned, hired, and non-owned vehicles against death, bodily injury, and property damage claims, in a combined single limit amount of not less than five million dollars (\$5,000,000).

E. AIRLINE shall carry and maintains workers' compensation and employers' liability insurance in accordance with the laws of the State of Vermont with an All States Endorsement and one million dollars (\$1,000,000) in Employer's Liability coverage.

F. If at any time AIRLINE shall fail to obtain or maintain in force the insurance required herein, CITY may notify AIRLINE of its intention to purchase such insurance for AIRLINE's account, and, if AIRLINE has not delivered evidence of insurance to CITY before the date on which the current insurance expires, CITY may but is not obligated to effect such insurance by taking out policies in companies satisfactory to CITY, such insurance to be in amounts no greater than those stipulated herein or as may be in effect from time to time. The amount of the premiums paid for such insurance by CITY shall be payable by AIRLINE upon receipt of CITY's billing therefor, with interest at the rate of 18% per year commencing thirty (30) days following the date of the City's billing therefore. The aforesaid amounts and types of insurance shall be reviewed from time to time by CITY and adjusted if CITY reasonably, and in good faith, determines such adjustments are necessary to protect CITY'S interest.

G. If any claim for damages of any kind is made with AIRLINE or if any lawsuit is instituted against AIRLINE, AIRLINE shall give prompt and timely notice thereof to CITY, provided that claims and lawsuits subject to such notice are only those that arise out of or are in any way connected with AIRLINE's use of the

Leased Premises or AIRLINE's operations or activities in regard to the Airport and that in any way affect or might reasonably affect CITY.

Section 11.03. Indemnification

AIRLINE agrees fully to indemnify, defend, save and hold harmless CITY from and against all claims and actions (and all reasonable expenses incidental to the investigation and defense thereof including reasonable attorney fees) based on or arising out of death or injury to person or persons or damages to property caused by, or arising out of negligence or willful misconduct in the use, occupancy, activities or operations by AIRLINE at or on the Airport or Airport facilities; provided that AIRLINE shall not be liable for any injuries, death, damages, or loss to the extent that such injury, death, damage, or loss is caused by the fault or negligence of CITY, its agents or employees; and provided further that CITY shall give to AIRLINE prompt and reasonable notice of any such claims or actions.

Section 11.04. Non-liability of Agents and Employees

No elected or appointed official, board member, director, officer, agent or employee of either party shall be charged personally or held contractually liable by or to the other party under any term or provision of this Agreement or because of any breach thereof or because of its or their execution or attempted execution of this Agreement.

ARTICLE 12  
TERMINATION BY AIRLINE

AIRLINE, at its option, may declare this Agreement and Lease terminated in its entirety at any time AIRLINE is not in default in the payment of any rentals, fees or charges due to CITY and in the performance of its other obligations hereunder by giving CITY thirty (30) days advance written notice to be served as hereinafter provided and by surrender of the Leased Premises upon the happening of any one or more of the following events:

1. If Exclusive Use Premises leased to AIRLINE become untenable in whole, or in substantial part (more than fifty percent), and CITY does not terminate the letting thereof, pursuant to the option reserved to it in this Agreement, or does not proceed as promptly as reasonably practicable with the repairs and rebuilding necessary to restore Exclusive Use Premises to its condition prior to the occurrence of the damage.

2. If CITY fails to provide and maintain means for unobstructed ingress and egress to and from the Exclusive Use Premises in accordance with the provisions of this Agreement.

3. If CITY shall close the Airport to aircraft operations in general, or to the flights of AIRLINE for reasons other than weather, acts of God or other reasons beyond CITY's control and fails to reopen Airport to such operation or flights for a period in excess of thirty (30) days.

4. If after reasonable notice from AIRLINE, CITY fails to comply with any of the terms or provisions of this Agreement or fails to promptly fulfill any of its obligations under the Agreement.

5. No termination declared by AIRLINE shall be effective unless and until not less than thirty (30) days have elapsed after written notice to CITY specifying the date upon which such termination shall take effect and the cause for which it is being terminated. CITY may cure the cause of such termination within said thirty (30) day period, or such longer time as the parties may agree.

6. AIRLINE's right of termination hereunder shall be in addition to any other rights provided herein or by operation of law. Failure of AIRLINE to declare this Agreement terminated upon default of CITY for any of the reasons set out shall not operate to bar, destroy or waive the right of AIRLINE to cancel this Agreement by reason of any subsequent violation of the terms hereof.

#### ARTICLE 13 TERMINATION BY CITY

##### Section 13.01. Termination of Agreement

CITY, at its option, may declare this Agreement terminated in its entirety upon the happening of any one or more of the following events, and may exercise all rights of entry and re-entry upon Leased Premises:

1. If the Rentals or other money payments which AIRLINE is required by this Agreement to pay, or any part hereof, shall be unpaid on the date the same shall become due.

2. If AIRLINE shall file a voluntary petition in bankruptcy, or make a general assignment for the benefit of creditors, or if AIRLINE is adjudicated a bankrupt.

3. The taking of jurisdiction by a court of competent jurisdiction of AIRLINE or its assets pursuant to proceedings brought under the provisions of any Federal reorganization act.

4. The appointment of a receiver or a trustee of AIRLINE's assets by a court of competent jurisdiction or a voluntary agreement with AIRLINE's creditors which is not voided within ninety (90) days.

5. If any act occurs which operates to deprive AIRLINE permanently of the rights, power and privileges necessary for the proper conduct and operation of its business.

6. If AIRLINE abandons and fails to use Leased Premises for a period of thirty (30) days at any one time, except when such abandonment and cessation is due to fire, earthquake, strike, governmental action, default of CITY or other cause beyond AIRLINE's control.

7. If AIRLINE shall use or permit the use of Leased Premises at any time for any purpose which at that time is not authorized by this Agreement, or by a subsequent written agreement between the parties, or shall permit the use thereof in violation of any law, rule or regulation to which AIRLINE has agreed in this Agreement to conform.

8. If AIRLINE discontinues air service to Airport as a consequence of AIRLINE's filing a bankruptcy petition, voluntary or involuntary seeking a reorganization or readjustment of its indebtedness under the Federal bankruptcy

laws or under any other statute of the United States or any state thereof or being adjudged bankrupt, AIRLINE shall be deemed to have forfeited its leasehold space.

9. If AIRLINE shall be in violation of any of the terms or provision of this Agreement or fails to promptly fulfill any of its obligations under the Agreement.

10. No termination declared by CITY shall be effective unless and until not less than thirty (30) days have elapsed after written notice to AIRLINE specifying the date upon which such termination shall take effect and the cause for which it is being terminated. AIRLINE may cure the cause of such termination within said thirty (30) day period, or such longer time as the parties may agree.

Section 13.02. Possession by CITY

In any of the aforesaid events, CITY may take possession of the Leased Premises upon fifteen (15) days notice after the time specified in Section 13.01 (10) and remove AIRLINE's property and effects, without being deemed guilty of trespassing. In any such event AIRLINE shall pay at the same time as the Rentals charges and fees hereunder become payable a sum equivalent to the Rentals charges and fees deemed payable by AIRLINE as if a default had never occurred. In the event said Rentals charges and fees cannot be determined with certainty, the estimates of CITY shall be used. CITY may relet the Leased Premises for the account of AIRLINE at terms deemed to be in CITY's best interest, without discharging AIRLINE from any liability, applying any money collected first to the expense of resuming or obtaining possession, second to restoring the Leased Premises to a rentable condition, and then to the payment of Rentals charges and

fees due and accruing to CITY, any deficiency to be paid by AIRLINE. Upon said default, all rights of AIRLINE shall be forfeited, provided, however, CITY shall have and reserve all of its available remedies at law as a result of said breach of this Agreement.

Failure of CITY to declare this Agreement terminated upon default of AIRLINE for any of the reasons set out shall not operate to bar, destroy or waive the right of a CITY to terminate this Agreement by reason of any subsequent violation of the terms thereof.

#### Section 13.03. Suspension of Agreement

During the time of war or national emergency, CITY shall have the right to lease the landing area or any part thereof to the United States Government for military use. If any such agreement is executed, any provisions of this Agreement which are inconsistent with the provisions of the lease to the Government shall be suspended, provided that the term of this Agreement may be extended by the amount of the period of suspension if the parties so agree in writing.

### ARTICLE 14 RIGHTS UPON TERMINATION OR REASSIGNMENT OF LEASED PREMISES

#### Section 14.01. Fixed Improvements

Except as otherwise provide herein, all leasehold improvements and any alterations thereto other than Personal Property shall be and remain the property of CITY during the entire term of this Agreement and thereafter without compensation to AIRLINE.

Section 14.02. Personal Property

Upon the conclusion or prior termination of this Agreement, AIRLINE shall remove all Personal Property from the Leased Premises within thirty (30) days after said conclusion or prior termination and restore the Leased Premises to their original condition. If AIRLINE fails to remove said Personal Property, said property may thereafter be removed by CITY at AIRLINE's expense or, at the election of the CITY, be retained as the CITY's property.

ARTICLE 15  
SUBLEASE, ASSIGNMENT AND HANDLING AGREEMENTS

Section 15.01. Assignment and Subletting

AIRLINE shall not assign or transfer this Agreement or any right or leasehold interest granted to it by its Agreement, or sublet, mortgage, pledge or otherwise hypothecate or otherwise transfer any interest in or to Leased Premises without the prior written approval of CITY, which approval shall not be unreasonably withheld.

Section 15.02. Successors and Assigns Bound

This Agreement shall be binding on and inure to the benefit of the successors and assigns of the parties hereto.

Section 15.03 Handling Agreements

In the event AIRLINE agrees to ground handle any portion of the operations of another Air Transportation Company, even if such other Air Transportation Company is an Affiliate of AIRLINE, AIRLINE shall provide CITY advance written notice of such proposed activities, including a description of the type and extent of services to be provided. Notwithstanding the foregoing, AIRLINE shall not ground handle any Air Transportation Company, including Affiliates, that does not have in force an agreement with CITY for the operation of its Air Transportation Business at the Airport. In the event AIRLINE ground handles any Air Transportation Company that does not have in force an agreement with CITY, then AIRLINE will be responsible for so notifying CITY and for collecting the appropriate fees and charges and reporting and remitting same to CITY, within thirty (30) business days.

## ARTICLE 16 ENVIRONMENTAL

### Section 16.01 General Conditions

Notwithstanding any other provisions in this Agreement, and in addition to any and all other requirements of this Agreement or any other covenants, representations, or warranties of AIRLINE, AIRLINE hereby expressly covenants, warrants, and represents to CITY, in connection with AIRLINE's operations under this Agreement (whether identified during the term of the Agreement or after the Agreement has terminated), at Airport the following:

A. AIRLINE is knowledgeable of all applicable federal, state, and local environmental laws, ordinances, rules, regulations, and orders which apply to AIRLINE's operations at AIRPORT and acknowledges that such environmental laws, ordinances, rules, regulations, and orders change from time-to-time, and AIRLINE agrees to keep informed of any such future changes.

B. AIRLINE agrees to comply with all applicable federal, state, and local environmental laws, ordinances, rules, regulations and orders that apply to AIRLINE's operations. AIRLINE agrees to hold harmless and indemnify CITY for any violation by AIRLINE of such applicable federal, state, and local environmental laws, ordinances, rules, regulations, and orders and for any non-compliance by AIRLINE with any permits issued to AIRLINE pursuant to such environmental laws. Those items for which the CITY shall be held harmless and indemnified shall include, but not be limited to, enforcement actions to assess, abate, remediate, undertake corrective measures or monitor environmental conditions, and for any monetary penalties, costs, expenses, or damages, including natural resource damages, imposed against AIRLINE, its employees, invitees, sublessees, suppliers, or service providers by reason of AIRLINE's violation or non-compliance and including without limitation reasonable attorney fees.

C. AIRLINE agrees to cooperate with any investigation, audit or inquiry by CITY or any governmental agency or their designee, regarding possible violation of any environmental law or regulation upon the AIRPORT.

D. AIRLINE agrees that all remedies of CITY as provided herein with regard to violation of any federal, state, or local environmental laws, ordinances, rules, regulations, or orders shall be deemed cumulative in nature and shall survive termination of this Agreement.

E. AIRLINE agrees that a copy of any notice of violation, notice of non-compliance, or other enforcement action shall be provided to CITY within seven (7) days of receipt by AIRLINE or AIRLINE's agent at the address provided for such notices in Section 18.15. Any violation or notice of violation or non-compliance with federal, state, or local environmental law or ordinance shall be deemed a default under this Agreement. Such default may be cured within thirty (30) days of receipt of notice of default from CITY, or such longer period as may be required to effect a cure provided AIRLINE commences a cure within said thirty (30) days and thereafter diligently prosecutes the cure to completion. Any such default that is not cured shall be grounds for termination of this Agreement.

F. In entering this Agreement, CITY expressly relies on the covenants, representations and warranties of AIRLINE as stated herein.

G. Should CITY undertake any voluntary programs designed to improve environmental conditions, including, but not limited to, solid waste recycling programs, clean-fuel vehicle programs, etc., AIRLINE agrees to undertake a good faith review of the program and attempt to participate. Should any such programs be mandated by any federal, state, or local governmental agency, AIRLINE agrees to comply with such mandates at its own expense.

Section 16.02 Storm Water; Compliance with Clean Water Act (33 U.S.C. 1251 et seq.).

Notwithstanding any other provisions or terms of this Agreement, AIRLINE acknowledges that certain properties within the Airport or on CITY owned land are subject to federal and state stormwater laws, rules and regulations. AIRLINE agrees to observe and abide by such stormwater laws, rules and regulations as may be applicable to CITY's properties and uses thereof.

A, The activities of the AIRLINE are included in CITY's National Pollutant Discharge Elimination System (NPDES) permit. Contamination to stormwater can result from activities such as, but not limited to, aircraft fueling, aircraft and vehicle maintenance, aircraft and vehicle washing, and aircraft de-icing.

B. To ensure compliance with CITY's NPDES permit, the AIRLINE shall utilize Best Management Practices (BMPs) so as to not contaminate the Airport's stormwater system:

1. The AIRLINE is responsible for deicing in designated areas only. AIRLINE must use CITY approved materials only. Propylene glycol-based Aircraft De-icing Fluid (ADF) shall be used by the AIRLINE, unless otherwise approved in writing by CITY. The AIRLINE must utilize best management practices to limit the amount of chemical used.

2. The AIRLINE shall submit monthly reports to the Airport Manager during the deicing season that shows the location of its anti-icing/deicing activities, the quantity of deicing fluid applied, and the type of material applied. These are due to CITY no later than the 10th of the following month.
3. After immediately contacting the Airport Manager or his/her designee, AIRLINE shall provide a written follow-up for all spills or releases from its fueling activities to the Airport Manager within five (5) days of the incident. AIRLINE is responsible for the containment and clean up of spills from aircraft fueling, vehicle fueling, and leaking vehicles. AIRLINE must properly label and dispose of all contaminated material used to remediate spills including signing hazardous waste manifests. AIRLINE must comply with all reporting requirements of NHDES, and a copy of the written report shall be submitted to the Airport Manager.
4. AIRLINE must provide the Airport Manager with copies of all claims, observations, reports, and notices of violation the AIRLINE receives from the NPDES or any environmental regulatory authority relating to its activities at the Airport.
5. AIRLINE must report major lavatory spills to the Airport Manager. The AIRLINE is responsible for the cleanup and disposal of all

lavatory spills caused by the AIRLINE, its sublessees, agents, employees, contractors or invitees.

6. AIRLINE shall maintain its vehicles to prevent discharges to stormwater.
7. CITY may require AIRLINE to remove vehicles that leak from service. The AIRLINE shall place drip pans under leaking vehicles, promptly clean up all leaks and spills, and properly dispose of all material used to clean up spills, in accordance with appropriate laws, ordinances, and regulations. CITY may require AIRLINE to remove vehicles that leak or are in disrepair should such vehicles reasonably be deemed by CITY to be an environmental concern.
8. AIRLINE shall allow the Airport Manager access to its facilities, with reasonable prior notice and during regular business hours (except in cases of emergency).
9. AIRLINE agrees to allow CITY to visit vehicle maintenance facilities with reasonable prior notice and during regular business hours (except in cases of emergency), to determine opportunities to reduce possible pollution.
10. Washing of vehicles and aircraft is not allowed at the Airport.
11. AIRLINE shall comply with all applicable governmental, environmental, health and safety laws and regulations, at its own expense.

12. If AIRLINE owns or operates above-ground storage tanks, drums, and containers at the Airport, it shall comply with all applicable governmental environmental, health and safety laws and regulations, at its own expense.

13. AIRLINE shall be liable to and indemnify CITY for payment of any fines or penalties levied against CITY for alleged violations of any applicable governmental environmental, health or safety laws or regulations arising out of the actions or inactions of AIRLINE that cause the violation of such laws or regulations and shall be liable to and indemnify CITY for the reasonable and necessary cost, plus twenty percent (20%) administrative fee, of any cleanup or remediation incurred by CITY related thereto, if AIRLINE does not perform the necessary cleanup or remediation in a timely manner.

Section 16.03 Termination of Agreement/Vacating of Leased Premises

A. AIRLINE shall notify the Airport Manager when Agreement expires and when the Leased Premises will be available for inspection. The Airport Manager shall determine when the Leased Premises are such that any and all contamination caused by the AIRLINE in conducting operations under this Agreement (whether identified during the term of the Agreement or after the Agreement has terminated), has been cleaned up, or whether AIRLINE is to continue clean up operations at its own expense. AIRLINE shall not be released from its responsibilities under

Agreement until the Airport Manager has performed an assessment of the conditions of all space leased by the AIRLINE under Agreement.

1. AIRLINE shall immediately remove all Hazardous Materials and Hazardous Wastes from leased areas at the termination of Agreement, unless otherwise approved in writing by CITY.
2. Any contamination caused by AIRLINE in violation of applicable law shall be AIRLINE's responsibility to remediate, at its own expense.

B. CITY will provide AIRLINE with written notice of any stormwater discharge permit requirements applicable to AIRLINE and with which AIRLINE will be obligated to comply from time-to-time, including, but not limited to: certification of non-stormwater discharges; collection of stormwater samples; preparation of stormwater pollution prevention or similar plans; implementation of best management practices; attendance at training sessions; inspections; and maintenance of necessary records. Such written notice shall include applicable deadlines. AIRLINE agrees that within thirty (30) days of receipt of such written notice, it shall notify CITY in writing if it disputes any of the stormwater permit requirements it is being directed to undertake. If AIRLINE does not provide such timely notice, AIRLINE will be deemed to have assented to undertaking compliance with such stormwater permit requirements. In the event AIRLINE agrees to undertake (at its sole expense, unless otherwise agreed to in writing between CITY and AIRLINE) those stormwater permit requirements for which it

has received written notice from CITY, AIRLINE agrees that it will hold harmless and indemnify CITY for any violations or non-compliance with any such permit requirements.

Section 16.04 Solid and Hazardous Waste.

A. Hazardous Material Definitions.

1. Hazardous Material, whenever used herein, includes the definitions of hazardous substance, hazardous material, toxic substance, and regulated substance as defined within all applicable governmental environmental laws and regulations, including but not limited to:
  - a. Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. Section 9601 et seq.);
  - b. Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.);
  - c. Hazardous Materials Transportation Act (49 U.S.C. Section 1801 et seq.);
  - d. Department of Transportation Table (49 C.F.R. Section 172, 101);
  - e. Environmental Protection Agency (40 C.F.R. Part 302);
  - f. All substances, materials, and wastes that are, or become, regulated under, or that are classified as hazardous or toxic under any other applicable governmental environmental laws or regulations.

2. In addition to the laws listed above, AIRLINE will comply with the governmental environmental laws and regulations of the jurisdiction where the Leased Premises are located that relate to health, safety, wastes, Hazardous Material, contamination or protection of the environment.
3. Hazardous Materials as used in this Agreement also include, but are not limited to, the following substances: Jet fuel, gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing solvents, materials containing asbestos or urea formaldehyde, polychlorinated biphenyls and radioactive materials.

B. Compliance with Hazardous Material, Governmental Laws and Regulations.

1. AIRLINE shall not cause or permit the presence, use, discharge, disposal, storage, release or threatened release of any Hazardous Material, pollutants or contaminants on or in the Leased Premises or other property at the Airport except in compliance with applicable laws and regulations and in quantities necessary to its operations. AIRLINE shall not do anything affecting the Airport that is in violation of any applicable governmental environmental law or regulation; nor shall AIRLINE allow its sublessees, agents, employees, contractors, or invitees to do anything in violation of any applicable governmental environmental law or regulation.

2. The Airport Manager will have access to the Leased Premises to inspect the same to ensure that AIRLINE is using the Leased Premises in accordance with applicable governmental environmental laws and regulations (with reasonable notice and without interfering with operations).
3. At the discretion of the Airport Manager and based upon reasonable belief that AIRLINE has caused or is responsible for an environmental violation at the Airport and upon request by the Airport Manager, AIRLINE will conduct such testing and analysis (at its own expense) as necessary to ascertain whether AIRLINE is operating in compliance with applicable governmental environmental laws and regulations. Any such tests will be conducted by qualified independent experts chosen by AIRLINE and approved by CITY; such approval shall not unreasonably be withheld. Copies of such testing and analytical results from any such testing will be provided to the Airport Manager.
4. After any initial emergency response involving spills or leaks of Hazardous Materials, AIRLINE shall promptly provide the Airport Manager, and the Airport Manager shall provide AIRLINE, notification of any spills or leaks of Hazardous Materials and written notice of any investigation, and copies of all notices, reports (except for all reports subject to attorney-client privilege), claims,

demands or actions arising out of the release or threatened release of Hazardous Material or special wastes to the environment in violation of law, caused or permitted by the AIRLINE and affecting the Airport, of which AIRLINE or CITY has knowledge.

C. Contamination of Airport.

1. If AIRLINE learns, or is notified by any governmental regulatory authority, that any removal or other remediation of any Hazardous Material contamination caused or permitted by AIRLINE in conducting operations under this Agreement (whether identified during the term of the Agreement or after the Agreement has terminated) and affecting the Airport is necessary, AIRLINE shall promptly take all necessary remedial actions in accordance with applicable governmental environmental law or regulation, at AIRLINE's sole cost.
2. If the presence of any Hazardous Material on, under, or about the Airport caused or permitted by AIRLINE in conducting operations under this Agreement (whether identified during the term of the Agreement or after the Agreement has terminated) results in any contamination of the Airport or any third party in violation of law, AIRLINE, at its sole cost and expense, will take steps to remedy and remove any such Hazardous Material and any other environmental contamination caused by AIRLINE, its sublessees,

agents, employees, contractors or invitees as is presently or subsequently discovered on or under the Airport, as are necessary to protect the public health and safety and comport with environment laws and regulations. In performing any such remedial actions, AIRLINE, to the extent authorized by any governmental authority, shall rely upon generally accepted industrial/commercial standards and objectives and applicable risk-based cleanup methodologies, use restrictions and other controls. Such procedures are subject to prior approval of the Airport Manager, which approval will not be unreasonably withheld if the procedures meet environmental laws and regulations, and the cleanup procedures will not interfere with operations at the property. Prior to any remediation and/or clean-up, AIRLINE will submit to the Airport Manager a written plan for completing all work. The Airport Manager retains the right to review and inspect all such work at any time using consultants and/or representatives of his/her choice. Such actions of remediation by the AIRLINE shall be conducted in such manner that they will not potentially have any material adverse long-term effect on the Leased Premises or other property at the AIRPORT or the property of third parties, in the sole, but reasonable, judgment of the Airport Manager.

3. In all cases where Hazardous Waste is generated by the activities of AIRLINE, its sublessees, agents, employees, contractors, or invitees, AIRLINE shall sign hazardous waste manifests for the removal of said waste and provide copies to CITY.

D. Compliance with All Government Authorities

1. AIRLINE will promptly make all submissions to, provide all information to, and comply with all requirements of all appropriate governmental authorities under all applicable governmental environmental laws and regulations.
2. Should any governmental entity determine that a site characterization, site assessment, etc., and/or cleanup should be undertaken by AIRLINE because of any spills or discharges of Hazardous Waste at the Airport caused or permitted by AIRLINE that occur during the term of this Agreement, the AIRLINE shall (at its own expense) prepare and submit required plans and financial assurances, and carry out the approved plans. At no cost or expense to CITY, AIRLINE will promptly provide information requested by the Airport Manager to determine the applicability of the government's environmental laws or regulations to the Airport, to respond to any governmental investigation or to respond to any claim of liability by third parties that is related to environmental contamination or permitted by AIRLINE.

3. AIRLINE's obligations and liabilities under this provision will continue so long as AIRLINE bears any responsibility under applicable governmental environmental laws or regulations for any action that occurred at the Airport during the term of this Agreement.
4. AIRLINE shall be liable to and indemnify CITY, without limitation, for costs (including reasonable attorneys fees) incurred in connection with any investigation of site conditions or any cleanup required by applicable law; and remedial, removal, or restoration work required by any appropriate federal, State or local governmental agency or political subdivision having jurisdiction because of Hazardous Material located on the Airport or present in the soil or groundwater on, under or about the Airport as a result of AIRLINE's operations under this Agreement (whether identified during the term of the Agreement or after the Agreement has terminated).
5. The parties agree that CITY's right to enforce AIRLINE's promise to indemnify is not an adequate remedy at law for AIRLINE's violation of any provision of this Agreement. CITY will also have the right to terminate this Agreement for a material violation of governmental environmental laws or regulations if AIRLINE does not promptly correct such violation after notice, except that if AIRLINE's violation

is egregious in nature and was caused by AIRLINE's gross negligence or willful misconduct, CITY may immediately terminate this Agreement and take possession of the leased premises upon giving the notice specified in Section 18.15.

Section 16.05 Limitations

Notwithstanding any other provision of this Agreement, AIRLINE shall not be responsible to the extent a claim or expense arises out of: (A) conditions existing prior to AIRLINE's presence at the Premises, or (B) the negligence or willful misconduct of CITY or its employees, invitees, sublessees, suppliers or service providers.

ARTICLE 17  
ACCOMMODATION AND REASSIGNMENT

Section 17.04 Indemnification Exception

During the period of use of AIRLINE's facilities by an Air Transportation Company pursuant to this Article 17, AIRLINE shall be relieved of its obligation under this Agreement to indemnify and save harmless CITY, its officers, directors, employees, or agents with regard to any claim for property damage or personal injury arising out of or in connection with said accommodated Air Transportation Company's use of Airline Premises, unless such damage or injury is caused by AIRLINE, its officers, directors, employees, or agents who have come upon Airline Premises in connection with AIRLINE's occupancy hereunder. CITY shall require

such accommodated Air Transportation Company to agree in writing to indemnify CITY and AIRLINE in the manner and to the extent required of AIRLINE.

Section 17.05 Competitive Access Requirements

Pursuant to the requirements of 14 CFR Part 158 and 49 §47106(f), CITY shall have the right to terminate this Agreement upon thirty (30) days written notice to AIRLINE by registered or certified mail given at its address specified in Section 18.15 hereof in the event that any portion of its existing Airline Premises is not fully utilized and is not made available for use by potentially competing air carriers or foreign air carriers. The foregoing provision shall apply only if and to the extent required by 14 CFR Part 158 and 49 U.S.C. §47106(f) or by federal grant assurances executed by CITY pursuant to said regulation.

ARTICLE 18  
MISCELLANEOUS

Section 18.01. Non-Interference with Operation of Airport

AIRLINE, by accepting this Agreement, expressly agrees for itself, its successors and assigns that it will not make use of the Leased Premises in any manner which might interfere with the landing and taking off of aircraft at the Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, upon reasonable notice to AIRLINE and opportunity to cure, the CITY reserves the right to enter upon the premises hereby leased and cause the abatement of such interference at the expense of AIRLINE.

CITY shall maintain and keep in good condition and repair the Airport landing areas, including taxiways and shall have the right to direct and control all activities of AIRLINE in this regard.

Section 18.02. Headings of Articles and Sections

The headings of the various articles and sections of this Agreement are merely for convenience or reference and do not limit the content of the articles and sections.

The language in all parts of this Agreement shall in all cases be construed simply according to its fair meaning and not strictly construed against CITY, it being stipulated and agreed that AIRLINE participated in the drafting hereof.

Section 18.03. Severability

If one or more clauses, sections, or provisions of this Agreement shall be held to be unlawful, invalid, or unenforceable, it is agreed that the remainder of the Agreement shall not be affected thereby, unless to do so would prejudice the rights of either party.

Section 18.04. Governing Law

This Agreement and all disputes arising hereunder shall be governed by the Laws of the State of Vermont or applicable federal law.

Section 18.05. Quiet Enjoyment

AIRLINE shall, on payment of the rentals, fees, and charges as herein required and subject to the performance and compliance by AIRLINE of the covenants, conditions, and agreements on the part of AIRLINE to be performed and

complied with hereunder, peaceably have and enjoy the rights, uses, and privileges of the Airport, its appurtenances, and facilities as granted hereby and subject to the Rules and Regulations.

Section 18.06. Incorporation of Exhibits

All exhibits referred to in this Agreement are intended to be and hereby are specifically made a part of this Agreement.

Section 18.07. Incorporation of Required Provisions

The parties incorporate herein by this reference all applicable provisions lawfully required to be contained herein by any governmental body or agency.

Section 18.08. Entire Agreement

This Agreement, together with all exhibits attached hereto, constitutes the entire agreement between the parties hereto, and all other representations or statements heretofore made, verbal or written, are merged herein, and this Agreement may be amended only in writing, and executed by duly authorized representatives of the parties hereto.

This Agreement shall supersede and replace all prior airline operating agreements by and between AIRLINE and CITY and said prior agreements shall be and are hereby terminated and cancelled and the terms thereof brought to an end as of the effective dates hereof.

Section 18.09. Nonwaiver of Rights

No waiver by either party, at any time, of any of the terms, conditions, covenants, or agreements herein, or of any forfeiture, shall be deemed or taken as a

waiver at any time thereafter of the same of any other term, conditions, covenant, or agreement herein contained, nor of the strict and prompt performance thereof. No delay, failure, or omission of CITY to re-enter Exclusive Use Premises, and no subsequent acceptance by CITY of rent then or thereafter accrued, and no delay, failure, or omission of either party to exercise any right, power, privilege, or option arising from any default, shall impair any such right, power, privilege, or option, or be construed to be a relinquishment thereof, or a waiver of such default or acquiescence therein; and no notice by either party shall be required to restore or revive any option, right, power, remedy, or privilege after waiver by such party of default in one or more instances. No option, right, power, remedy, or privilege of either party shall be construed as being exhausted or discharged by the exercise thereof in one or more instances. All rights provided by this Agreement shall be cumulative, and no one of them shall be exclusive of the other or exclusive of any other remedies provided by law, and the exercise of one right, power, option, or remedy by either party shall not impair its rights to exercise any other right, power, option or remedy.

Section 18.10. Force Majeure

Neither CITY nor AIRLINE shall be deemed to in breach of this Agreement by reason of failure to perform any of its obligations hereunder, if, while, and to the extent that such failure is due to strikes, boycotts, labor disputes, embargoes, shortages of materials, acts of god, acts of the public enemy, acts of superior governmental authority, weather conditions, floods, riots, rebellion, sabotage, or any

other circumstances of which it is not responsible, and which are not within its control. This provision shall not apply to failures by AIRLINE to pay rents, fees, or other charges, or to make any other money payments required by this Agreement. This provision shall not prevent either party from exercising its rights to termination under Articles 12 and 13 of this Agreement.

Section 18.11. Generally Accepted Accounting Principles

Whenever any report or disclosure referred to in this Agreement consists, either in whole or in part, of financial information, said financial information shall be prepared in accordance with generally accepted accounting principles consistently applied, if applicable.

Section 18.12. General Interpretation

Insofar as this Agreement grants, permits or contemplates the use of space or facilities or the doing of any other act or thing at the Airport by AIRLINE, such use or doing of such act or thing is to be in connection with the operation of civil air transportation system by AIRLINE for the carriage by aircraft of persons, property, cargo, and mail on scheduled or nonscheduled flights, whether as a common carrier, a contract carrier, a private carrier, or otherwise. Each of the parties, however, has entered into this Agreement solely for its own benefit; and (without limiting the right of either party to maintain suits, actions, or other proceedings because of breaches of this Agreement) the Agreement does not grant to any third person (except a successor party to CITY or AIRLINE) a right to claim damages or bring any suit, action, or other proceeding against either CITY or AIRLINE because

of any breach hereof. The language in all parts of this Agreement shall in all cases be construed simply according to its fair meaning and not strictly construed against CITY, it being stipulated and agreed that AIRLINE participated in the drafting hereof.

Section 18.13. Agreements Between CITY and Other Air Transportation Companies

CITY agrees not to enter into any Agreement with any other Air Transportation companies conducting similar operations at the Airport after the date of this Agreement which contain substantially more favorable terms than those provided in this Agreement unless the same terms are concurrently made available to AIRLINE.

Section 18.14. Time of the Essence

Time is of the essence in this Agreement.

Section 18.15. Notices, Consents, and Approvals

All notices, consents, and approvals required or authorized by this Agreement to be given by or on behalf of either party to the other, shall be in writing and signed by a duly designated representative of the party by or on whose behalf they are given.

Notices required by this Agreement shall be given by registered or certified mail by depositing the same in the U.S. mail in the continental United States, postage prepaid, return receipt requested. Either party shall have the right, by giving written notice to the other, to change the address at which its notices are to be delivered. Until any such change is made, notices shall be delivered as follows:

1. CITY:

Airport Manager  
Burlington International Airport  
1200 Airport Drive #1  
South Burlington, Vermont 05403

2. AIRLINE:

Director of Properties & Facilities  
Federal Express Corporation  
3680 Hacks Cross Road  
Building H, 3<sup>rd</sup> Floor  
Memphis, TN 38125

The effective date of such notice shall be the date of the receipt as shown by the U.S. Postal Service return receipt. If notice is given in any other manner or at any other place, it shall also be given at the place and in the manner specified in this Section.

Section 18.16 Livable Wage Ordinance.

CITY has in effect a livable wage ordinance. This livable wage ordinance is applicable to service contracts with CITY (as opposed to the purchasing of goods) where the total amount of the contract or contracts with the same person or entity exceeds \$15,000 for any twelve-month period. Airport property leases are considered contracts covered under the ordinance. AIRLINE at its own expense, shall comply with the livable wage ordinance to the extent that it is a covered employer under the ordinance.

DRAFT

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

CITY OF BURLINGTON

\_\_\_\_\_  
Witness

By: \_\_\_\_\_

Title: \_\_\_\_\_

AIRLINE

\_\_\_\_\_  
Witness

By: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF VERMONT  
CHITTENDEN COUNTY, SS.

At Burlington, this \_\_\_ day of \_\_\_\_\_, 2013, personally appeared \_\_\_\_\_, and acknowledged this Agreement and Lease of Premises by him signed and sealed, to be his free act and deed and the free act and deed of City of Burlington.

\_\_\_\_\_  
Notary Public

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

At \_\_\_\_\_, this \_\_\_ day of \_\_\_\_\_, 2013, personally appeared \_\_\_\_\_, and acknowledged this Agreement and Lease of Premises by him/her signed and sealed, to be his/her free act and deed and the free act and deed of Federal Express, Inc..

\_\_\_\_\_  
Notary Public

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**AUTHORIZATION TO EXECUTE LEASE RENEWAL  
WITH FEDERAL EXPRESS CORPORATION FOR  
73 CUSTOMS DRIVE AT BURLINGTON  
INTERNATIONAL AIRPORT**

In the year Two Thousand Thirteen.....

Resolved by the City Council of the City of Burlington, as follows:

That WHEREAS, the City of Burlington (“City”) owns and operates the Burlington International Airport in South Burlington, Vermont (“Airport”); and

WHEREAS, the City owns land and a building at the Airport known as 73 Customs Drive; and

WHEREAS, the Federal Express Corporation, now requests to renew a lease of 9,000 square feet in the in the building and 84,250 square feet of ramp area at the total rental rate of approximately \$49,172.50 per year as described in a proposed lease, a copy of which is attached hereto and which will be effective June 1, 2013, have an initial term of five years and one month, and a renewal term of an additional five years effective July 1, 2018 (“Lease”); and

WHEREAS, the Interim Director of Aviation Gene Richards deems the Lease to be in the best interest of the City, Airport and public airport purposes; and

WHEREAS, the Board of Airport Commissioners approved of the Lease on March 18, 2013; and

WHEREAS, the Board of Finance approved of the Lease on April 15, 2013,

NOW THEREFORE BE IT RESOLVED that the Mayor of the City of Burlington, Miro Weinberger, be and hereby is authorized to execute the Lease between Federal Express Corporation and the City of Burlington, and such other documents as will be required for the lawful culmination of the Lease, all subject to the prior approval of the Chief Administrative Officer and the City Attorney as necessary.

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**AUTHORIZATION TO EXECUTE LEASE RENEWAL  
WITH FEDERAL EXPRESS CORPORATION FOR  
73 CUSTOMS DRIVE AT BURLINGTON  
INTERNATIONAL AIRPORT**

NAME/PURPOSE OF CONTRACTS:	Federal Express Lease Renewal
ADMINISTRATING DEPARTMENT:	Airport
CONTRACT AMOUNTS:	Per Agreement
CONTRACT TERM:	Five years and one month effective June 1, 2013
RENEWAL TERM:	Five years effective July 1, 2018
DESIGNATION OF FUNDS:	
FISCAL YEAR:	2013
ACCOUNT NAME:	Industrial Park
ACCOUNT NUMBER:	4465.4470

200020-70 ; Resolution – “Federal Express” Lease Renewal

